

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 01, 2005

DIVISION ONE

B167487 Cryport Systems (Not for Publication)
 v.
 CNA Financial Corp., et al.

The judgments are affirmed. Defendants and respondents Valley Forge Insurance Company, CNA Financial Corporation, and Continental Casualty Company are entitled to costs on appeal.

Mallano, J.

We concur: Spencer, P.J.
 Suzukawa, J. (Assigned)

B175903 Folkes
 v.
 Bufford

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B174117 Zephyr Properties, LLC et al., v. 812 S. Westlake, LLC et al.
B176378 Trimas Investment Real Estate, Inc., v. 812 S. Westlake LLC

Filed order consolidating above captioned appeals.

DIVISION TWO

B175892 People (Not for Publication)
v.
Sotelo

The Court:

The judgment is affirmed.

Nott, Acting P.J., Doi Todd, J., Ashmann-Gerst, J.

B175555 Los Angeles County, D.C.S. (Not for Publication)
v.
Bridget C.

The dispositional order denying reunification services to Bridget is affirmed and the matter is remanded to the juvenile court with directions that the juvenile court shall direct the Department to comply with the notice provisions of the ICWA. After proper notice under the ICWA, if Brooke is determined to be an Indian child and the ICWA applies to these proceedings, Bridget is then entitled to petition the juvenile court to invalidate orders which violated title 25 United States Code sections 1911, 1912, and 1913. (See 25 U.S.C. § 1914; Cal. Rules of Court, rule 1439(n)(1).)

Nott, Acting P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

B174503 Stevens (Not for Publication)
v.
City of Los Angeles et al.

The judgment is affirmed. Respondent(s) to recover costs.

Nott, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

February 01, 2005 (Continued)

DIVISION TWO (Continued)

[illegible]

The order under review is conditionally reversed and remanded for further proceedings consistent with the views expressed herein. In the event the original adjudicatory finding and disposition are reinstated, the condition of probation including the provision that appellant not remain in the presence of anyone who is unlawfully armed is modified to read as follows: “You are not to have any dangerous or deadly weapons in your possession, and you may not remain in the presence of anyone who is known to you to be unlawfully armed.”

Nott, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

[illegible]

The judgment appealed from is affirmed. Appellant shall bear respondent's costs of appeal. Respondent is awarded sanctions in the amount of \$7,500 against appellant.

Nott, Acting P.J.

We concur: Doi Todd, J.
Ashmann-Gerst, J.

DIVISION THREE

[illegible]

The judgment is affirmed, except that the trial court's order denying appellant's Penal Code section 1538.5 suppression motion is reversed, appellant's sentence is vacated, and the matter is remanded to the trial court with directions to conduct a new hearing on the suppression motion previously filed by appellant. If the motion is granted, the court shall order the judgment vacated and set the matter for a new trial. If the motion is denied, the court shall resentence appellant consistent with this opinion.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION FOUR

B174455 Viola et al. (Not for Publication)
v.
State of California Department of Managed Health Care, et al.

The order of dismissal is affirmed.

Epstein, P.J.

We concur: Curry, J.
Grimes, J. (Assigned)

February 01, 2005 (Continued)

DIVISION FOUR (Continued)

B173283 Cal-Asia Property Development Co., et al. (Not for Publication)
v.
Dominguez et al.

The judgment is affirmed. Costs on appeal are awarded to respondents.

Hastings, J.

We concur: Epstein, P.J.
Grimes, J. (Assigned)

2-1-05

125694-05

The **HONORABLE ELIZABETH ALLEN WHITE**, Judge of the Superior Court of California, County of Los Angeles, is hereby assigned to assist the Court of Appeal, Second Appellate District, **Division FOUR**, as a justice thereof, on the following dates:

March 1, 2005 to May 31, 2005

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: January 27, 2005

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

February 01, 2005 (Continued)

DIVISION FIVE

Court convened at 8:30 a.m.

Present: Armstrong, Acting P.J., Mosk, J., Kriegler, J. (Assigned) and Zaida G. Heraldez, Deputy Clerk.

B172981 Thomas Branick et al.
 v.
 Downey Savings & Loan Assn.

Merits:
Argued by Peter Sloane and Pamela Mante Parker for appellants and by
Matthew A. Hodel for respondent. Cause submitted.

Court recessed.

Court reconvened at 9:39 a.m.

Present: Turner, P.J., Armstrong, J., Kriegler, J. (Assigned) and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B179309 People v. Eduardo Munoz (re: OSC DISMISSAL)
B174893 People v. Robert Vigil
B177674 In re Steven D; DCFS v. Carol A.
B173837 People v. Carlos Juarez

Argument waived, cause submitted.

B172465 Nathan Williams
 v.
 AT&T Broadband

Merits:
Argued by R. Michael Hoffman for appellant and by Heather C. Beatty for
respondent. Cause submitted.

DIVISION FIVE (Continued)

B171909 Maria Delgado
 v.
 Sheng Hsiang Juen (USA) Inc.

Merits:
Argued by Mark H. Herskovitz for respondent and no appearance for
appellant. Cause submitted.

B170904 Elston Ray Blumhorst
 v.
 Haven Hills, Inc. et al

Merits:
Argued by Marc E. Angelucci for appellant and by Richard Nakamura and
Gordon E. Krischer for respondents. Cause submitted.

Court recessed 11:56 a.m.

Court reconvened at 11:00 a.m.

Present: Armstrong, Acting P.J., Mosk, J., Kriegler, J. (Assigned) and Zaida G. Heraldez
and J. Belcher, Deputy Clerks.

B179115 Veronica T. v. S.C.L.A. (DCFS)

Argument waived, cause submitted.

B172335 People
 v.
 James Loaiza

Appearances:
Bill Hence for appellant and by Erika D. Jackson, Deputy Attorney General
for respondent. Argument waived, cause submitted.

DIVISION FIVE (Continued)

B172272 The People
 v.
 Lance Robbins

Merits:
Argued by Renay Rodriguez for appellant and by Gregory D. Brown for respondent. Cause submitted.

B171371 Rilorio, Inc.
 v.
 Michael Tumanjam et al.

Merits:
Argued by Arthur Grebow for appellants and by Fred Rucker for respondent. Cause submitted.

Court recessed.

Court reconvened at 1:00 p.m.

Present: Armstrong, Acting P.J., Mosk, J., , Kriegler J. (Assigned) and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B175108 Darrell Berry
B166320 Vogel, et al. v. The Way Institute of Martial Arts

Argument waived, cause submitted.

B170480 The People
 v.
 Raithiele Robinson

Merits:
Argued by Rita L. Swenor for appellant and by Richard S. Moskowitz, D.A.G. for respondent. Cause submitted.

DIVISION FIVE (Continued)

B171554 Joan Glatt et al.
 v.
 Sheldon S. Ellis

Merits:
Argued by Sheldon S. Ellis for appellant and by Mark Gottlieb for
respondent. Cause submitted.

Court adjourned.

B173066 Ernest Leep
 v.
 American Ship Management

Filed order vacating submission order of November 1, 2004. Submission is
vacated because of the complexity of issues. Cause resubmitted.

DIVISION SIX

B170224 People
 v.
 Campbell

Filed order denying petition for rehearing.

DIVISION SEVEN

B159594 Morohoshi et al. (Not for Publication)
v.
Pacific Home et al.

Section 6 of the Standards of Judicial Administration, provides, "The Courts of Appeal should dispose of causes that raise no substantial issues of law or fact by memorandum or other abbreviated form of opinion." This appeal is subject to disposition by memorandum opinion because it is determined by a controlling decision which does not require reexamination or restatement of its principles or rules.

Plaintiffs Yoshi and Hikaru Morohoshi appeal from the judgment following a special verdict finding defendant Harbor Regional Center (HRC) not negligent in the death of plaintiffs' son, Bobby Morohoshi, a developmentally disabled adult. On appeal plaintiffs do not challenge this verdict with respect to HRC's own negligence. Rather, they contend the trial court erred in refusing to allow the jury to find HRC vicariously liable for Bobby's death caused by the negligence of defendant's agent Pacific Home.

In our previous opinion on this issue we agreed with plaintiffs and modified the judgment accordingly. The Supreme Court reversed our judgment and remanded the cause to us "for further proceedings consistent with [its] opinion" and to award costs, if any.

No supplemental briefs were filed following remand from the Supreme Court and it appears the Supreme Court's opinion addressed all of the issues raised in plaintiffs' appeal resulting in an affirmance of the judgment for HRC. Therefore the only matter for us to resolve is the award of costs. Consistent with the usual practice when a judgment is affirmed without modification we award costs to respondent HRC.

Johnson, J.

We concur: Perluss, P.J.
 Woods, J.

DIVISION EIGHT

B173471 Visher et al. (Certified for Publication)
 v.
 City Of Malibu

The orders are affirmed. Respondents to recover their costs on appeal.

Rubin, Acting P.J.

We concur: Boland, J.
 Flier, J.

B167661 Brown et al. (Not for Publication)
 v.
 City Of South Pasadena et al.,
 Huntington Fremont Partners

The judgment is affirmed. Respondents to recover their costs on appeal.

Rubin, J.

We concur: Cooper, P.J.
 Flier, J.

B171726 City Of Malibu (Not for Publication)
 v.
 Taxpayers For Livable Communities et al.

The order is affirmed. Respondents to recover their costs on appeal.

Rubin, Acting P.J.

We concur: Boland, J.
 Flier, J.

February 01, 2005 (Continued)

DIVISION EIGHT (Continued)

B172341 People (Not for Publication)
v.
Randolph

The judgment is affirmed.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.